P.R. No. 4513/06 Rajkarsh Anthony
Presented by Shri
dated 18/8/06

SINGLE BENCH

(6)

CF. 1001

BEFORE THE HON'BLE HIGH COURT OF JUDICATURE AT BILASPUR

IN THE MATTER OF **W.P. NO. 6235 /06 (SB)**

PRESIDENT
CHHATISGARH PARIVAHAN SANGH
THROUGH SHRI GAINDLAL SAHU,
SANJAY NAGAR RAJNANDGAON C.G. -----**PETITIONER**

VERSUS

1. MANAGING DIRECTOR
RAJNANDGAON ROADWAYS PVT. LTD.
RAJNANDGAON C.G.

2. MANAGING DIRECTOR
KANKER ROADWAYS RAIPUR

3. LABOUR COURT
THROUGH THE PRESIDING OFFICER,
RAJNANDGAON --**RESPONDENTS**

WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF WRIT IN THE NATURE OF CERTIORARI AND ANY OTHER ORDER ORDIRECTION AS DEEMED FIT

XI-HC-22

(158)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक ..... WP 6235 **सन्** 2006

..... **विरुद्ध** .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	23.11.2006 Shri AP Singh, counsel for the petitioner. None for the respondents. Heard. This petition under Article 226/227 of the Constitution of India has been preferred for quashing the order dated 12.05.2006, passed by the Judge, Labour Court, Rajnandgaon whereby, order proceeding *ex parte* dated 16.12.2002 and consequently award passed on 23.12.2002 in original Case No.2/I.D.Act/ref/90 were set aside and original case was restored for hearing. Petitioner has challenged the legality of the impugned order on the ground that the labour Court has no jurisdiction to set aside its own *ex parte* award after 30 days. During argument, learned counsel for the petitioner frankly conceded that the award has not been published so far under Section 17 of the Industrial Disputes Act, 1947 (henceforth "the Act"), but urged that the provision being directory and not mandatory, non-publishing of the award does not authorize the Court to set aside its *ex parte* award, and also placed his reliance on the judgment rendered by the Apex Court in the matter of ***Grindlays Bank Limited Vs The Central Government Industrial Tribunal and others*** reported in ***AIR 1981 Supreme Court 606.***	

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(159)

आदेश पत्रक

मामला क्रमांक ...W.P. 6235/... सन् 2006

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

Hon'ble the Apex Court rendering judgment in the matter o ***Grindlays Bank*** (supra) has held that :-

> "*Tribunal does not become functious officio provided application is filed within 30 days of publication of award*"

Here, in the instant case, admittedly, in accordance with Section 17 of the Act, the *ex parte* award has not been published, therefore, for setting aside the *ex parte* award, person proceeded *ex parte* has right to move an application for setting aside the *ex parte* award and on sufficient grounds the Court has power and jurisdiction to set it aside and restore the same for hearing. In view of the aforesaid facts and circumstances, the order passed by Industrial Court does not appear to be without jurisdiction, who after appreciating the facts and circumstances of the case has on sufficient grounds set aside the *ex parte* award and restored the case for adjudication.

No other grounds have been raised during arguments.

In the result, the petition deserves to be dismissed and accordingly it is dismissed *in limine*.

In the light of above order, IA No.10758/2006 & M.(W.)P.No.4603/2006 stand disposed of.

Sd/-
V.K. Shrivastava
Judge

padma

(पीछे देखिये)

2 ..... हस्ताक्षर अधिवक्ता